

# EXHIBIT D

1  
2 UNITED STATES DISTRICT COURT

3 DISTRICT OF NEW JERSEY

4 CIVIL ACTION NO. 2:16-cv-06576

5 -----x

6 INDUSTRIA DE ALIMENTOS ZENU S.A.S.,

7 Plaintiff,

8 -against-

9 LATINFOOD U.S. CORP. d/b/a ZENU

10 PRODUCTS CO. and WILSON ZULUAGA,

11 Defendant/Counter Plaintiff,

12 -----x

13 LATINFOOD U.S. CORP. d/b/a ZENU

14 PRODUCTS CO.,

15 Defendant/Counter Plaintiff,

16 -against-

17 INDUSTRIA DE ALIMENTOS ZENU S.A.S. and

18 CORDIALSA, USA, INC.,

19 Counter Defendants.

20 -----x

21  
22 April 11, 2019

23 10:10 a.m.

24 Confidential Deposition of LUIS SALAZAR

<p style="text-align: right;">Page 50</p> <p>1 L. Salazar</p> <p>2 A. Not all of them and the ones that we</p> <p>3 have have been provided to our attorney.</p> <p>4 RQ MR. INGBER: I don't believe we have</p> <p>5 ever received any written report about</p> <p>6 Marquillas and we ask that it be produced.</p> <p>7 MR. RAYMOND: It's been produced. It</p> <p>8 is not a report. It is a document but it's</p> <p>9 been produced.</p> <p>10 BY MR. INGBER:</p> <p>11 Q. So you had testified that the</p> <p>12 complaint says that Industria became aware in</p> <p>13 October 2013 of Latinfood's Zenu mark in the US.</p> <p>14 Is that when you became aware of the</p> <p>15 design of the products as well?</p> <p>16 MR. RAYMOND: I object to the form of</p> <p>17 the question. Design of the products? Do</p> <p>18 you mean the labeling or something? What</p> <p>19 are you talking about?</p> <p>20 MR. INGBER: The labeling.</p> <p>21 A. I said that I had learned of this</p> <p>22 through the testimony that I mentioned. I did not</p> <p>23 say anything about the date that you are putting</p> <p>24 in the question.</p> <p>25 Q. Will you be able to check your records</p>	<p style="text-align: right;">Page 52</p> <p>1 L. Salazar</p> <p>2 telling you that.</p> <p>3 MR. INGBER: We are not just relying</p> <p>4 here on documents. We are here for</p> <p>5 testimony about his knowledge of the records</p> <p>6 of the company. So we are not just bound by</p> <p>7 the documents whatever many you produced.</p> <p>8 MR. RAYMOND: Good. Then you can ask</p> <p>9 him any question you want but you can't give</p> <p>10 him assignments. That's all I am saying.</p> <p>11 You can ask him any question you want, show</p> <p>12 him any document you want but you can't ask</p> <p>13 him to go do things for you. That's my</p> <p>14 objection. So let's move on.</p> <p>15 MR. INGBER: Okay.</p> <p>16 BY MR. INGBER:</p> <p>17 Q. Are there any other persons at</p> <p>18 Industria that would be familiar with what</p> <p>19 happened in the report from October of 2013 from</p> <p>20 Gloria?</p> <p>21 MR. RAYMOND: Object to the form.</p> <p>22 There has been no testimony the report from</p> <p>23 Gloria came from October 2013. In fact, his</p> <p>24 testimony was it came in before that.</p> <p>25 MR. INGBER: I didn't hear him testify</p>
<p style="text-align: right;">Page 51</p> <p>1 L. Salazar</p> <p>2 and determine when you exactly became aware of</p> <p>3 Latinfood's use of the Zenu brand mark?</p> <p>4 A. I already said in previous answers</p> <p>5 that we learn of this through different events.</p> <p>6 Q. I am asking you about October of 2013.</p> <p>7 Will you be able to look at your</p> <p>8 records to determine when you were first made</p> <p>9 aware of Latinfood's use of the Zenu brand?</p> <p>10 A. We will be able to look at the record</p> <p>11 and see which date we took Gloria's information.</p> <p>12 RQ MR. INGBER: We are here for a second</p> <p>13 day. I ask that you have the answer when we</p> <p>14 resume the deposition tomorrow so that we</p> <p>15 can avoid having to have you or somebody</p> <p>16 else come back to testify about that.</p> <p>17 MR. RAYMOND: Let me state that I</p> <p>18 think this whole line is inappropriate.</p> <p>19 There are documents that have been produced</p> <p>20 that set forth the dates of, I think, all</p> <p>21 the things you are asking. He has testified</p> <p>22 there were several events. It is not his</p> <p>23 job to go back and search through the</p> <p>24 documents to identify dates. He is here to</p> <p>25 testify about what he knows. And he is</p>	<p style="text-align: right;">Page 53</p> <p>1 L. Salazar</p> <p>2 about that.</p> <p>3 MR. RAYMOND: He testified about it at</p> <p>4 least twice in the last half an hour.</p> <p>5 BY MR. INGBER:</p> <p>6 Q. So are you saying that -- your</p> <p>7 attorney has just stated that and maybe I missed</p> <p>8 this previously, that Industria became aware of</p> <p>9 Latinfood's use of the Zenu brand product prior to</p> <p>10 October 2013; is that correct?</p> <p>11 MR. RAYMOND: I didn't testify --</p> <p>12 excuse me. I didn't testify to anything.</p> <p>13 What I said is that he testified that</p> <p>14 Gloria's report came in before October 2013</p> <p>15 is what he said.</p> <p>16 MR. INGBER: Okay.</p> <p>17 BY MR. INGBER:</p> <p>18 Q. So Gloria's report came in before</p> <p>19 October of 2013; is that correct?</p> <p>20 A. I have already said I do not remember</p> <p>21 the date.</p> <p>22 Q. I understand, but was it before</p> <p>23 October of 2013?</p> <p>24 A. I don't remember.</p> <p>25 Q. In paragraph 64 it says that a</p>

<p style="text-align: right;">Page 54</p> <p>1 L. Salazar</p> <p>2 supplier contacted Industria to alert it of</p> <p>3 Latinfood's activity.</p> <p>4 Who was the supplier?</p> <p>5 A. Marquillas.</p> <p>6 Q. Marquillas is a supplier of Industria?</p> <p>7 A. I do not work with the suppliers, no.</p> <p>8 Q. Who works with the suppliers?</p> <p>9 A. Santiago Jimenez.</p> <p>10 Q. Do you know if Mr. Jimenez was alerted</p> <p>11 to Marquillas's complaint?</p> <p>12 A. I don't know if he was alerted</p> <p>13 directly.</p> <p>14 Q. Have you ever spoken to Mr. Jimenez</p> <p>15 about what happened with Marquillas?</p> <p>16 A. We have talked directly to our</p> <p>17 attorneys.</p> <p>18 Q. Did you speak with Mr. Jimenez about</p> <p>19 this personally?</p> <p>20 A. No.</p> <p>21 MR. RAYMOND: Mark, just to clarify</p> <p>22 one point, I was just handed a note saying</p> <p>23 that in an e-mail that we sent you on</p> <p>24 January 28 of this year we notified you we</p> <p>25 had researched it and determined that</p>	<p style="text-align: right;">Page 56</p> <p>1 L. Salazar</p> <p>2 about Latinfood's activity; is that correct?</p> <p>3 A. Within my knowledge that's correct.</p> <p>4 Q. So I would like you to look at</p> <p>5 paragraph 65 of the complaint now.</p> <p>6 Did this investigation by Industria</p> <p>7 into Latinfood's business begin in October of 2013</p> <p>8 when Marquillas informed Industria of Latinfood's</p> <p>9 activity?</p> <p>10 A. When Industria became aware of all of</p> <p>11 that information it was immediately handled</p> <p>12 through the attorneys. I don't remember the exact</p> <p>13 date.</p> <p>14 Q. Has anyone ever contacted Industria to</p> <p>15 ask if Industria is affiliated with Latinfood in</p> <p>16 the US?</p> <p>17 A. Gloria's complaint was about that.</p> <p>18 Q. Is there anybody else beside Gloria?</p> <p>19 A. Not that I know of.</p> <p>20 MR. INGBER: Five minute break Peter.</p> <p>21 MR. RAYMOND: Sure.</p> <p>22 (Recess taken.)</p> <p>23 MR. INGBER: I would like to put a</p> <p>24 caveat on the record that your testimony</p> <p>25 today is supposed to be spontaneous. I am</p>
<p style="text-align: right;">Page 55</p> <p>1 L. Salazar</p> <p>2 Gloria's report was made on September 11,</p> <p>3 2014.</p> <p>4 Q. Do you know if there is a report by</p> <p>5 Marquillas?</p> <p>6 A. I know the information that was</p> <p>7 provided to the attorneys.</p> <p>8 Q. Is it accurate to say that then</p> <p>9 looking at paragraph 64 in the complaint that</p> <p>10 Industria was unaware of Latinfood's use of the</p> <p>11 Zenu mark in the US until in or around October</p> <p>12 2013 when Marquillas contacted Industria?</p> <p>13 A. I am not very clear on what the</p> <p>14 question is.</p> <p>15 MR. INGBER: Could you repeat the</p> <p>16 question?</p> <p>17 (Record read.)</p> <p>18 A. I did not know before. I did not</p> <p>19 know.</p> <p>20 Q. But Industria knew; is that correct?</p> <p>21 MR. RAYMOND: I am sorry.</p> <p>22 Industria knew what?</p> <p>23 Q. Industria became aware of Latinfood's</p> <p>24 use of the Zenu mark in the US in October of 2013</p> <p>25 when Marquillas contacted Industria to inform them</p>	<p style="text-align: right;">Page 57</p> <p>1 L. Salazar</p> <p>2 asking your counsel not to speak to you</p> <p>3 about the line of questions that I am asking</p> <p>4 you today so we can keep your testimony</p> <p>5 spontaneous.</p> <p>6 MR. RAYMOND: I don't know what that</p> <p>7 means but obviously I have the right to</p> <p>8 consult with my client as necessary.</p> <p>9 MR. INGBER: Well, you don't have a</p> <p>10 right to consult with your client about his</p> <p>11 testimony in the middle of a deposition.</p> <p>12 MR. RAYMOND: I certainly do, but</p> <p>13 anyway. Let's move on.</p> <p>14 MR. INGBER: If you will say you are</p> <p>15 not going to I will respect your word. That</p> <p>16 will be fine.</p> <p>17 MR. RAYMOND: Of course I am not going</p> <p>18 to say I won't consult with my client. I</p> <p>19 will consult with my client when it's about</p> <p>20 whatever I think is appropriate.</p> <p>21 MR. INGBER: So you are saying you</p> <p>22 will feel free to consult with your client</p> <p>23 about his answers during the middle of his</p> <p>24 deposition.</p> <p>25 MR. RAYMOND: I am not going to say</p>

<p style="text-align: right;">Page 58</p> <p>1 L. Salazar</p> <p>2 anything of the sort. I am saying that I</p> <p>3 will reserve my rights to speak to my client</p> <p>4 about whatever I want to speak to my client</p> <p>5 about.</p> <p>6 MR. INGBER: During the middle of a</p> <p>7 deposition as well?</p> <p>8 MR. RAYMOND: Whatever I want to talk</p> <p>9 to my client about that's appropriate I will</p> <p>10 speak to him about.</p> <p>11 What right do you have to try to tell</p> <p>12 me what I can and cannot speak to my client</p> <p>13 about?</p> <p>14 MR. INGBER: The right I have is that</p> <p>15 this is a deposition and it is not supposed</p> <p>16 to be having a counsel discuss the lines of</p> <p>17 questions and how he responds during the</p> <p>18 course of a deposition transcript. This is</p> <p>19 a really important issue. I think this is</p> <p>20 pretty basic.</p> <p>21 MR. RAYMOND: Let's move along. If</p> <p>22 you have some case or citation you think</p> <p>23 governs my ability to speak to my client I</p> <p>24 would be happy to look at it, but let's move</p> <p>25 on.</p>	<p style="text-align: right;">Page 60</p> <p>1 L. Salazar</p> <p>2 on.</p> <p>3 BY MR. INGBER:</p> <p>4 Q. Mr. Salazar, do you have any records</p> <p>5 showing a crossover of Industria and Latinfood</p> <p>6 customers between the US and Columbia?</p> <p>7 A. Overlap, no.</p> <p>8 Q. So to your knowledge, Latinfood and</p> <p>9 Industria have different customers; is that</p> <p>10 correct?</p> <p>11 A. Industria does not do business in the</p> <p>12 United States.</p> <p>13 Q. Now I would like you to look at -- by</p> <p>14 the way, I am not sure if I asked this before, but</p> <p>15 did you provide any information in connection with</p> <p>16 the claims in this complaint LS B?</p> <p>17 MR. RAYMOND: Object to the form.</p> <p>18 A. Which one is LS B?</p> <p>19 Q. That whole document.</p> <p>20 A. What's the question?</p> <p>21 (Record read.)</p> <p>22 MR. RAYMOND: My objection to the</p> <p>23 form. To clarify is provide information to</p> <p>24 whom?</p> <p>25 A. All the information has been through</p>
<p style="text-align: right;">Page 59</p> <p>1 L. Salazar</p> <p>2 MR. INGBER: I don't have a case on</p> <p>3 hand but we may need to speak to the</p> <p>4 magistrate about this because this is a very</p> <p>5 important issue. It appears to me your</p> <p>6 witness has been consulting with you during</p> <p>7 the course of the deposition transcript.</p> <p>8 MR. RAYMOND: You have no idea what I</p> <p>9 have consulted with my client about. So</p> <p>10 your implication is insulting and I am not</p> <p>11 going to respond to it any further. So</p> <p>12 let's move on.</p> <p>13 MR. INGBER: Well, it is on the</p> <p>14 record.</p> <p>15 MR. RAYMOND: What's on the record?</p> <p>16 MR. INGBER: It is on the record my</p> <p>17 objection to it.</p> <p>18 MR. RAYMOND: Objection to what? What</p> <p>19 is it I have done? Tell me what evidence</p> <p>20 you have that I interfered in any way in</p> <p>21 this deposition.</p> <p>22 MR. INGBER: I don't know that you</p> <p>23 have but I am allowed to put a caveat on the</p> <p>24 record.</p> <p>25 MR. RAYMOND: Good. Then let's move</p>	<p style="text-align: right;">Page 61</p> <p>1 L. Salazar</p> <p>2 our attorneys.</p> <p>3 Q. So is that answer no when I am talking</p> <p>4 about you personally?</p> <p>5 MR. RAYMOND: Object to the form.</p> <p>6 A. We have provided the information to</p> <p>7 the attorneys.</p> <p>8 Q. Does that include you?</p> <p>9 A. The business that I represent.</p> <p>10 Q. Again, so not you personally, on</p> <p>11 behalf of Industria?</p> <p>12 MR. RAYMOND: Object to the form. He</p> <p>13 answered the question. Let's move on.</p> <p>14 Q. Please answer.</p> <p>15 A. We have provided all of the</p> <p>16 information to the attorneys involving myself and</p> <p>17 that's how we dealt with it.</p> <p>18 Q. Thank you.</p> <p>19 Now I would like you to turn your</p> <p>20 attention to paragraph 23 of the complaint LS B</p> <p>21 page 6.</p> <p>22 Do you have any evidence demonstrating</p> <p>23 that your Zenu and Ranchera marks have become</p> <p>24 famous in Columbia and across Latin America?</p> <p>25 MR. RAYMOND: Object to the form of</p>